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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

STORMER, RUSSELL D

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,262

Applicant(s)

ALLY ET AL.

Examiner

Russell D. Stormer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,9-13 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,9-13 and 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restriction

1. Restriction to one of the following inventions was required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a wheel system, classified in class 305, subclass 1.
 - II. Claims 14-22, drawn to a method for utilizing a wheel system, classified in class 280, subclass 5.26.
 - III. Claims 23 and 24, drawn to a method for making a wheel system, classified in class 164, subclass 1.

In the response filed August 18, 2005 Applicants have confirmed the election of the invention of Group I, claims 1-13. Claims 14-24 have been withdrawn.

2. This application contains claims 14-24 drawn to an invention nonelected without traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the center of gravity of the wheel as described in lines 13-14 of page 6 and later on page 7. The amendment to paragraph 0027 of the specification is noted, however, the center of gravity of the wheels is still not shown.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because it is not descriptive of the invention. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

The statement that the wheel systems "include the center of gravity that is higher up and farther out to the center, then (sic) the center of gravity for standard wheels" in lines 1-3 of paragraph 0028 is still not understood. The amendment to paragraph 0027 is noted, but the additional language appears to state that "This distance of six inches... is referred to as a center of gravity" does not clearly define the center of gravity of the

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wheels, nor does it overcome the objection. Further, it is not clear how a distance of six inches (which would be a straight line) could define a *center* of gravity, which is usually a point or very small area.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 7, 9, 10, 25, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawada (previously cited).

Sawada discloses a wheel system comprising a plurality of wheels connected to a base 12 having a plurality of curvature portions 12s. The dimensions of the wheel assembly are not provided.

For the curvature portions 12s to form an arc of eleven inches, and for the curvature portion to be offset six inches from the plurality of wheels to a center of the wheel system would have obvious to those of ordinary skill in the art because the dimensions of the wheel assembly are based on intended use and those of ordinary skill could readily determine suitable dimensions for the wheel assembly depending on the size of the obstacles (such as steps or stairs) to be overcome, the desired load the wheels will carry, the type of vehicle and the intended use of the vehicle which the wheel system are intended to be used on.

With respect to claims 25 and 26, the material used in the curvature portions would have been obvious as an engineering expedient. Sawada teaches the curvature portions 12s to be gliding surfaces, and states that the rotator may be made of nylon or other plastic materials as long as the materials allows a smooth sliding of the portions 12s during use. Those of ordinary skill in the art could readily choose a known material such as a lacquer for the curvature portions 12s.

9. Claims 1, 6, 11, 12, 13, and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (newly cited).

Ellis et al discloses a three-wheeled wheel assembly comprising a base 64 and a plurality of wheels. A brake system is provided to lock the wheel assembly in place.

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The brake system, shown in figure 7, comprises a lever 187, a core 173, and a brake pad 171 to contact a disc or shaft 178. The distance of the shaft to the brake pad is not specified, but a range of .25 to .50 inches would have been obvious as a mechanical expedient, so that the core and brake pad do not have to travel very far to contact the shaft.

The dimensions of the wheel assembly are not provided.

For the curvature portions of the base to form an arc of eleven inches, and for the curvature portion to be offset six inches from the plurality of wheels to a center of the wheel system would have obvious to those of ordinary skill in the art because the dimensions of the wheel assembly are based on intended use and those of ordinary skill could readily determine suitable dimensions for the wheel assembly depending on the size of the obstacles (such as steps or stairs) to be overcome, the desired load the wheels will carry, the type of vehicle and the intended use of the vehicle which the wheel system are intended to be used on.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 11, and 25-32 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show other wheel systems.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/31/05


RUSSELL D. STORMER
PRIMARY EXAMINER 10/31/05